

Remarks

Applicant respectfully requests reconsideration of this application as amended. No claims have been amended, cancelled, or added. Therefore, claims 1, 13, and 19-29 are presented for examination.

35 U.S.C. §112 Rejection

Claims 1 and 13 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. More specifically, the Final Office Action states that claims 1 and 13 contain subject matter that was not described in the specification, namely the phrase "...the fins having a length approximately equal to the width of the base...". Support for this feature can be found in the specification at page 8, last line of paragraph [0016], where it states "each of fins 207 may have a length 205 approximately equal to width 204 of base 212." Therefore, applicant respectfully requests that the 35 U.S.C. §112 rejection be withdrawn.

35 U.S.C. §102(e) Rejection

Claims 1, 13, 19, 20, 22-26, 28 and 29 stand rejected under 35 U.S.C. §102(e) as being anticipated Furuya (U.S. Patent No. 6,504,720). In response, applicant submits a declaration pursuant to 37 C.F.R. § 1.131 enclosed herewith to overcome the Furuya reference.

The submitted declaration shows that that the present application was conceived and reduced to practice in the United States prior to September 19, 2001, the effective filing date of Furuya. The effective date of Furuya under 35 U.S.C. §102(e) is September

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19, 2001, and not the foreign application Japan filing date of September 25, 2000. As explained in the MPEP §706.02(f)(1)I.(D), “[f]oreign applications’ filing dates that are claimed (via 35 U.S.C. 119(a)-(d), (f), or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. 102(e) dates for prior art purposes.” Example 3 in the MPEP §706.029f(1)II. further illustrates the application of this rule. As Furuya only claims the benefit of the Japan Patent Application filed September 25, 2000 under 35 U.S.C. 119(a)-(d), it cannot be accorded the September 25, 2000 date for prior art purposes. Therefore, the effective date of Furuya is its U.S. filing date of September 19, 2001.

The submitted declaration illustrates that the present application had been conceived and reduced to practice in the United States at least prior to September 19, 2001, the effective prior art date of Furuya. Reduction to practice occurs upon proof that the inventor had prepared drawings or other descriptions of the invention that are sufficiently specific to enable a person skilled in the art to practice the invention. (See *Pfaff v. Wells Elec., Inc.*, 525 U.S. 55).

Therefore, applicant submits that the above rejection has been obviated since Furuya has been overcome by the enclosed 37 C.F.R. §1.131 declaration. Accordingly, applicant submits that the present claims are patentable over Furuya.

Applicant emphasizes that submission of the enclosed declaration pursuant to 37 C.F.R. §1.131 should not be construed as an acquiescence to the any of the reasons for rejection set forth in the January 24, 2006 Office Action.

35 U.S.C. §103(a) Rejection

Claims 21 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Furuya (U.S. Patent No. 6,504,720) in view of Chao et al. (U.S. Patent No. 5,412,535). As discussed above, based on the enclosed 131 declaration, Furuya can no longer be applied as a prior art reference. Therefore, the 35 U.S.C. §103(a) rejection against claims 21 and 27 has been obviated.

Applicant respectfully submits that the rejections have been overcome and that the claims are in condition for allowance. Accordingly, applicant respectfully requests the rejections be withdrawn and the claims be allowed.

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.


Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Ashley R. Ott
Reg. No. 55,515

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1026
(303) 740-1980